
A BILL FOR AN ACT

RELATING TO FAMILY COURT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Existing law allows the court to order an
2 investigation and report concerning the care, welfare, and
3 custody of a minor child of the parties, in a contested custody
4 case. In such a case, investigators or professional personnel
5 attached to or assisting the court conduct investigations and
6 prepare reports that are made available to all interested
7 parties and counsel before the hearing.

8 The purpose of this Act is to:

- 9 (1) Define court-appointed investigators or professional
10 personnel as child custody evaluators;
- 11 (2) Require the department of commerce and consumer
12 affairs to establish the policies and procedures for
13 child custody evaluators; and
- 14 (3) Establish licensing requirements and minimal education
15 and experience requirements for child custody
16 evaluators.



1 SECTION 2. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 CHILD CUSTODY EVALUATORS

6 "§ -1 Definitions. As used in this chapter, unless the
7 context otherwise requires:

8 "Child custody evaluator" means all court-appointed
9 investigators or professional persons directed by the court to
10 make investigations and reports pursuant to section 571-46.

11 "Department" means the department of commerce and consumer
12 affairs.

13 "Eligible training providers" includes the administrative
14 office of the courts and may include educational institutions,
15 professional associations, professional continuing education
16 groups, public or private for-profit or not-for-profit groups,
17 court-connected groups, and any entity that provides a course or
18 seminar that may qualify for child custody evaluator continuing
19 education requirements.

20 "Mentor" means a person who meets all the education,
21 experience, training, and other requirements, and is certified
22 as a child custody evaluator under this chapter, and who



1 oversees, supervises, and consults for a court-appointed child
2 custody evaluator who does not meet the experience requirements
3 of this chapter.

4 § -2 Department of commerce and consumer affairs

5 responsibilities. (a) On or before January 1, 2010, the
6 department shall establish and maintain statewide policies and
7 procedures that establish all education, experience, training,
8 methodology, ethical standards, certification, and other
9 requirements for all child custody evaluators appointed pursuant
10 to this chapter. These policies and procedures shall also
11 include:

- 12 (1) Comprehensive standards for investigations,
13 evaluations, and reporting, as related to child
14 custody;
- 15 (2) The monitoring and handling of complaints against
16 child custody evaluators and coordinating with
17 professional licensing boards;
- 18 (3) Disqualification or decertification of child custody
19 evaluators based upon convictions, criminal charges,
20 relevant civil actions or complaints, or ethical
21 violations; and



1 (4) An administrative appeal process for both parties and
2 child custody evaluators, as related to the
3 application of this chapter and established policies.

4 (b) The department shall administer procedures for
5 certifying and decertifying child custody evaluators. The
6 department shall certify that child custody evaluators meet the
7 necessary requirements of this chapter and established policies
8 and procedures, and no person may be appointed as a child
9 custody evaluator unless certified or appointed pursuant to this
10 chapter.

11 § -3 **Child custody evaluator annual declaration.** The
12 department shall require a child custody evaluator to declare
13 annually under penalty of perjury:

14 (1) That child custody evaluator meets all of the required
15 education, experience, training, and other
16 requirements specified in or derived from this
17 section, and if applicable, possesses a license in
18 good standing; and

19 (2) Whether the child custody evaluator has any
20 convictions, criminal charges, relevant civil actions
21 or complaints, or ethical violations lodged or filed
22 against them.



1 § -4 **Licensing requirements.** (a) No person may be a
2 child custody evaluator under this chapter unless the person
3 meets one or the following licensing criteria and is in good
4 standing as a:

- 5 (1) Social worker;
- 6 (2) Marriage and family therapist;
- 7 (3) Psychologist; or
- 8 (4) Physician specializing in psychiatry.

9 This section shall not apply in any case where the court
10 determines that there are no child custody evaluators who meet
11 the criteria of this section who are willing and available,
12 within a reasonable period of time, to perform child custody
13 evaluations. In those cases, the parties may stipulate to an
14 individual who does not meet the criteria of this section,
15 subject to approval by the court.

16 (b) A child custody evaluator who is licensed under
17 subsection (a)(1) through (4) shall be subject to disciplinary
18 action by that board or department director for unprofessional
19 conduct, as defined in the licensing law applicable to that
20 licensee.



1 § -5 **Education and experience.** (a) Every child custody
2 evaluator shall meet minimum education and experience
3 requirements, as determined by the department.

4 (b) The department shall establish the minimum educational
5 standards for child custody evaluators. These standards shall
6 require all child custody evaluators to use comparable
7 interview, assessment, testing, and reporting methodologies and
8 procedures for all parties that are consistent with generally
9 accepted clinical, forensic, scientific, diagnostic, or medical
10 standards. These standards shall also require child custody
11 evaluators to inform each adult party of the purpose, nature,
12 and method of the evaluation.

13 (c) The department shall establish the minimum experience
14 requirements for child custody evaluators. If any experience
15 requirements are lacking for a prospective child custody
16 evaluator, a mentor may be assigned and the following shall
17 apply:

18 (1) Procedures for assigning a mentor and defining the
19 mentor's responsibilities toward the prospective child
20 custody evaluator may be used to ensure qualified
21 oversight exists during the custody evaluation
22 process;



- 1 (2) Mentors shall be assigned on a case-by-case basis;
- 2 (3) Conditions on the continued use of mentors, by an
- 3 individual prospective child custody evaluator, shall
- 4 be established to ensure the necessary experience
- 5 requirements are completed in a timely manner; and
- 6 (4) No compensation for mentoring shall be charged to the
- 7 case or the parties.

8 § -6 **Continuing training.** (a) The department shall
9 establish the minimum child custody evaluator annual continuing
10 training requirements and policies for the use of eligible
11 training providers.

12 (b) Training approved by professional licensing boards, or
13 by national or local eligible training providers, as qualifying
14 for child custody evaluator training, may count towards these
15 annual requirements.

16 (c) Eligible training providers shall:

- 17 (1) Develop procedures to verify that participants
- 18 complete the applicable education and training
- 19 program; and
- 20 (2) Distribute a statement or certificate of completion to
- 21 each person who has completed the training.



1 The statement or certificate shall document the number of hours
2 of training offered, the number of hours the person completed,
3 the dates of the training, and the name of the training
4 provider.

5 (d) Education and training courses that were taken between
6 January 1, 2007, and January 1, 2010, may be applied toward the
7 requirements of this section if they addressed the required
8 subjects and either were certified or approved for continuing
9 education credit by a professional provider group or were
10 offered as part of a related postgraduate degree or licensing
11 program."

12 SECTION 3. This Act shall take effect upon its approval.



Report Title:

Child Custody Evaluators; DCCA

Description:

Requires the Department of Commerce and Consumer Affairs to establish procedures and requirements for child custody evaluator training and certification. (HB2037 HD1)

